

**FACT FINDING DISCUSSION AND RECOMMENDATIONS**

Between )  
The Board of Trustees of )  
the California State )  
University System )  
and )  
California Faculty )  
Association, )  
AAUP-CTA/NEA-SEIU )  
\_\_\_\_\_ )

Re: Case No. LA-IM-3856-H  
Salary and SSI Re-opener

Impartial Chair

Bonnie Prouty Castrey  
Post Office Box 5007  
Huntington Beach, California 92615

University Panel Member

Brad Wells  
Associate Vice Chancellor  
Business and Finance  
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Association Panel Member

Kevin Wehr, Ph.D.  
Chair, CFA Bargaining Committee  
CFA Capitol Chapter President  
6000 J Street, Brighton Hall, 106  
Sacramento, CA 95819

Hearings Held

**November 23, 2015**

**December 7, 2015**

CFA Offices  
1110 K Street  
Sacramento, CA 95814

**January 13, 2016**

CSU Offices  
401 Golden Shore, 5<sup>th</sup> Floor  
Long Beach, CA 90802-4210

Appearances for the Parties:

California Faculty Association  
Kathy Sheffield  
Director of Representation  
1110 K Street  
Sacramento, CA 95814

California State University  
John Swarbrick  
Chief Negotiator and Sr. Labor Relations Advisor  
Office of the Chancellor, CSU  
401 Golden Shore, 5<sup>th</sup> Floor  
Long Beach, CA 90802-4210

BACKGROUND

The Board of Trustees of the California State University System (University or CSU) and the California Faculty Association, AAUP, CTA/NEA, SEIU (Union or CFA), are the parties in this fact finding matter. The members of this bargaining unit are members of CFA.

From the history provided to the Panel at the three days of Hearings and in the voluminous, well prepared binders from both parties, it is clear that these parties negotiations have been very challenging as the Great Recession is just now showing an upturn in the economy. During the Recession, the California State University system, sustained cuts in funding, which have caused employees to suffer cuts in staffing, furlough days and a significant loss of pay. As an agreement in their three year Collective Bargaining Agreement November 12, 2014-June 30, 2017, (CBA JX 1), these

parties are bargaining for a contract re-opener for 2015-2016 and they have another negotiated re-opener for year 2016-2017.

For this salary re-opener, they had two direct bargaining sessions and then declared impasse. A State Mediator was assigned to assist them, however, they did not reach an agreement in mediation. Therefore, the State Mediator certified them to Fact Finding on October 15, 2015. They proceeded to fact finding.

The issue before this Panel is Salary, including a Service Salary Increase (SSI) and Parking. The CSU proposal for parking was included in their proposal in Fact Finding for an increase of \$1.00 (CSU BK 2, Tab 19). Parking, however, was dropped by the University in their closing argument (CSU page 2 at footnote 6), which is helpful as there had not apparently been a proposal regarding this issue prior to the impasse proceedings.

The University selected Brad Wells, Associate Vice Chancellor Business and Finance as their Panel Member and the Association selected Dr. Kevin Wehr of CFA to be their Panel Member. The Panel Members then selected Bonnie Prouty Castrey as the Impartial Chair and so notified PERB.

The Principals and then the Panel met in conference to determine the process for the days of hearing. The Panel held the days of hearing with the parties on November 23, 2015, December 7, 2015 and January 13, 2016. Both parties presented their voluminous documentation and facts regarding the issues before the Panel. The three days of testimony were transcribed by certified court

reporters and witnesses were sworn in and testified under oath. Both parties were provided the full opportunity to present all their written evidence, which was accepted and testimony was provided, including rebuttal witnesses.

The third day of hearing, the Panel Members attempted to help the parties to reach a mediated settlement in Fact Finding. When that effort was not fruitful, the Members asked the parties to file final arguments in this matter by February 18, 2016. The Members then considered both parties' submissions thoroughly and the Chair drafted this Report and Recommendations.

In this matter, the Panel is guided by the California Government Code Section 3593 (a) of the HEERA which states in pertinent part:

If the dispute is not settled within 30 days after the appointment of the panel, or, upon agreement of both parties, within a longer period, the panel shall make findings of fact and recommend terms for settlement, which recommendations shall be advisory only. Any findings of fact and recommended terms of settlement shall be submitted in writing to the parties privately before they are made public. The panel, subject to the rules and regulations of the board, may make those findings and recommendations public 10 days thereafter. During this 10 day period, the parties are prohibited from making the panel's findings and recommendations public.

PERTINENT CONTRACT LANGUAGE

ARTICLE 31

SALARY

...

General Salary Increases

31.7 For fiscal year 2014/2015, all faculty unit employees shall receive General Salary Increases (GSI) of 1.6% effective July 1, 2014. At the same time that the GSI is applied, the minima, the Service Salary Increase (SSI) maxima, and the maxima on the salary schedules shall be adjusted upward by the amount of the GSI.

...

Salary Re-openers

31.9 Salary for Years 2015-2016 and 2016-2017 shall be subject to negotiation between the parties on thirty (30) days written notice by either party. Negotiations for these years shall commence no earlier than May 1, 2015 for Year 2015-2016 and May 1, 2016 for Year 2016-2017 and no later than June 30, 2015 for Year 2015-2016 and June 30, 2016 for Year 2016-2017.

...

Service Salary Increases

...

31.18 A service Salary Increase (SSI) refers to the upward movement on the salary schedules. Such adjustments shall be determined by the CFA and CSU during negotiations annually, and shall be limited following appointment or most recent promotion to no more than:

- a. four (4) steps on the salary schedule in effect prior to the 1995-98 Agreement, or
- b. eight (8) Service Salary Step increases under the salary schedule(s) in effect since that Agreement, or
- c. a combination of both (a) and (b) preceding that does not exceed a total of eight (8)

Service Salary Step Increases on the salary schedule.

31.19 No SSIs will be granted above, nor shall the granting of an SSI result in a salary rate above , the SSI maximum rates of pay for all bargaining unit ranks and classifications on the salary schedule in Appendix C except as provided for in Article 31.17. (CBA JX 1)

### HISTORY AND FACTS REGARDING ISSUES

#### Service Salary Increases (SSIs)

Service Salary Increases represent movement of 2.65%, or less, up to the SSI maximum, within the salary range of the faculty member. When negotiated, they are paid on a faculty member's anniversary date, unless negotiated otherwise.

No SSI's have been paid to faculty members who are eligible and would have become eligible since the 2007-2008 fiscal year. They were also paid in the 2006-07 fiscal year, but only those two fiscal years in a decade, since the 2004-05 fiscal year. Hence, approximately 43% of members in the bargaining unit are eligible for an SSI of 2.65% or less (CFA X 20 pg 3). Testimony supporting CFA's exhibit was provided at page 62 on the first day of hearing:

Q ...What are SSI's? What's their purpose in this faculty salary structure?

A. Well, they are essentially step increases that occur up to a certain point in your rank, and they function to ameliorate the effects or prevent the effects of compression and inversion by moving people up through the ranks so that newer faculty coming in stay below those more seasoned and experienced faculty members. (TX 1 pg 62 L 3-11)

To calculate the cost of a SSI, the CFA presumed that, based on the November, 2015 PIMS data, temporary faculty were eligible if they met the years of service and for tenure track faculty they used the PIMS "SSI Counter" field. They also calculated the base salaries of eligible faculty members to the SSI maximum to determine if members were eligible for no SSI, a partial SSI or a full SSI. They calculated the total amount for SSI's to be \$16,344,366.00 for the eligible faculty on the 23 campuses (CFA EX 35).

The CSU costed the SSI at \$19,767,200 (CSU Book 2, Tab 17). To establish the difference in calculation of over three million dollars, on cross examination of rebuttal witness for CSU, Ms Canfield, who had prepared the CSU document, the CFA asked:

Q. And you applied a 31.93 benefit factor according to the table you see at the top; is that correct?

A. Yes

Q. Did you apply it to all ranks?

A. Yes

Q. The retirement factor of 24 percent, did you apply that to all faculty at that rate?

A. Yes

Q. Are you aware that not all faculty, especially lecturers, for example with less than .5 time base are not eligible for retirement benefits?

A. Well, this is .4 and up to be eligible...

Q. Does your costing account for the fact that perhaps not all faculty are eligible for retirement benefits?

A. No

...

Q. Is it possible that with those (equity) increases a member of faculty are now closer to, at, or above the SSI max?

A. Again, I'd have to see the data.

Q. I am asking if it is possible. Are you able to answer that?

A. Is it possible? Sure it is possible.

Q. And that would impact the cost, do you agree with that?

- A. Yes  
Q. ... In your costing did you apply 2.65% to everyone eligible regardless-  
A. Yes  
Q. "Yes"?  
A. "Yes"  
Q. Is it true that if someone is close to the SSI max and 2.65% would take them above it, that they would only receive then a partial SSI salary increase?  
A. Yes  
Q. Is that accounted for in your costing?  
A. No (TX 3 pgs 31-34)

Considering the multiple calculations which were included in the CSU calculation, which added to the cost of SSI's, including all faculty who are eligible for an SSI and accounting for that eligibility at a full 2.65% as well as faculty who are eligible for a partial SSI being counted fully and counting pensions for people who are not eligible for pensions, as noted in this cross examination cited in detail above; the Chair finds that the CSU calculation is more likely than not inflated by three million or more dollars and credits the CFA calculation as it took those factors into account.

The Chair also notes that there would be some difference in the calculations as they were completed at two different times of the school year.

#### General Salary Increases

Historically, CSU faculty have received General Salary Increases (GSI) as follows:

2004-05 0%; 2005-06 3.5%; 2006-07 4.00%; 2007-08 5.7%; 2008-09 0%; 2009-10 0% and a 10% cut in pay for 18 furlough days (TX 1 pg 112 L 15-20); 2010-11 0%; 2011-12 0%; 2012-13 0%; 2013-14 negotiated at



1.34% but implemented as an increase in compensation at \$80.00 per month or \$960 per year, for a full time faculty member (TX 2, pg 238); 2014-15 3.00% negotiated as 1.6% GSI and targeted 3% increases for specific faculty... and 2 million dollars into the system wide equity pool.

While in 2008-09 and 2009-10 increases in both the GSI (5.00% and 6.00% respectively) and SSI (2.65% each year) were negotiated, when the Great Recession hit the economy and the CSU budget was decreased substantially, those negotiated raises were not provided. Further as noted above, the faculty endured a 10% cut in pay for a total of 18 furlough days (TX 1 pg 112 L 15-20).

Faculty members who were not "targeted" in the 2014-15 negotiation and therefore received a 1.6 % increase, have realized a 14.8 % increase over the last decade with an additional \$80.00 monthly/ \$960 per year, on schedule, prorata on the time base, per negotiations in 2013-14.

Had the recession not occurred, they would have an additional 11% minimum as a GSI, for a total of 25.8% and many would have received the 2.65% SSI's, up to 43% who have not had SSI's, in those two years.

The faculty members who were in the "targeted" population in 2014-15 negotiations, received the 1.6%, as noted above and received an additional 3% in that year (CSU BK 1, Tab 28, pg 4).

Further complicating the salary structure are systemwide equity increases which are negotiated to address specific

populations of faculty hired in specific year time frames, whose salary is below the SSI maximum (see the contract language JX 1 at pages 134-135). In 2007-08, 7 million dollars was allocated to fund systemwide equity increases, of which 6 million was paid in 2007-08. Then in 2008-09, the 7 million dollars that was negotiated, was not funded because of the recession and the cut to the CSU budget, however, the 1 million which was allocated and not distributed was rolled over from 2007-08 and distributed. In 2013-14, 4.5 million dollars was allocated to complete the 2008-09 payout. And, in 2014-15, 2 million dollars was allocated for the systemwide equity program, as a portion of the 3.00% negotiated settlement (see CFA final argument, pg 6).

The last comprehensive salary survey study done by Mercer for the CSU using the California Postsecondary Education Commission (CPEC) comparables, after the CPEC was defunded by the State, found that salaries for Assistant Faculty lagged by the market average by 7%; Associate Faculty lagged by 10%; Full Faculty lagged by 24% for a composite salary lag rate of 17% (CFA EX 19).

Since CPEC was defunded, the CSU completed an internal survey (CSU BK 2 tabs 1-5). In that survey analysis, with different criteria, including the establishment of three tiers of CSU schools low, medium and high enrollment as compared to similar sized schools who reported salaries to the American Association of University Professors (AAUP), the CSU chose comparison schools based on enrollment, total budget, the percent of Pell Grant

eligible students, the six year graduation rate and all research funding (see email at CSU BK 2 Tab 2). As the CFA points out, the cost of living in the comparator universities and colleges was not considered. Further, they argue that the states in the south and mid-west have lower costs than any portion of California (CFA EX 19).

Even the CSU data show that in the high enrollment tier, for CSU at Fullerton, Long Beach, Northridge, Sacramento, San Diego and San Jose; the Assistant Professors lag by 4.2%, Associates lag by 6.7% and Full Professors lag by 17.7%. These are all higher cost of living areas as well, so the lag may be even greater if the COLA is properly applied.

The mid-level enrollment tier is comprised of Chico, Dominguez Hills, East Bay, Fresno, Los Angeles, Pomona, San Bernardino, San Luis Obispo, the Assistant Professors lead by 4.1%, the Associate Professors lead by 0.5% and Professors lag by 6.3%. These areas may have lower enrollment, however, they are not housed in areas comparable to the southeast, Texas etcetera.

In the lower enrollment tier CSU Bakersfield, Channel Islands, Humboldt, Monterey Bay, San Marcos, Sonoma and Stanislaus, the Assistant Professors lead by 12.1%; the Associate Professors lead by 3.0% and the Full Professors lag by 2.6%. Again with no COLA applied, and compared to universities in Texas, Florida and Washington, one has to question the comparability results. The results still show significant lags in salary particularly at the

full professor level and a few leads at the Assistant and Associate level.

CFA shows that the cost of the median rent and median home value is highest in California which places a high of 48, with the next closest state, Oregon at 44, and the lowest states at 2 and 3 are Idaho and Indiana. The majority of comparison states have low to medium costs of living with 13 of the 20 states ranking at 37 or below (CFA EX 19 pg 3).

The disparity of a lag for the composite rate -17% done by Mercer for the CSU, following the State's defunding of CPEC and the finding in July 2015, at the Trustees meeting of a lag of 1.7% in base salary for faculty is troubling (CFA Tab 19). Some of the difference is likely accounted for from the 2014-15 salary application of GSI of 1.6% and the equity increases as well as the elimination of some lecturer level ranges, which provided some 2100 lecturer increases between 5% and 40.7%, with a median of 15.8% (CSU BK 2 EX 1). That large disparity is not accounted for though, as there were no GSI's during those intervening years from 2011, as listed above. The years 2008-2013 were all 0% with one year, 2013-14 at \$80.00 per month or \$960 per year, prorata for time base, applied onto the salary ranges.

It seems that a most helpful comparison would be to compare the same universities from states across the entire CSU System and including the cost of living comparisons.

CSU is funding enrollment growth at 3% in order to meet the demand for increased student access for higher education. To assure student success and their ability to complete their course work timely, the CSU is hiring more faculty and advisors, as well as increasing the use of technology to assist students and counselors in the scheduling of courses. Like many educational institutions, CSU is enhancing technology in order to make more informed data driven decisions regarding student progress to graduation and to assure potential timely interventions for students. The CSU also points out the cost of non-negotiable items, including health benefits, retirement benefits and space maintenance (CSU BK 1, Tab 7, the support budget). CSU also must maintain its facilities and infrastructure, including technology.

CSU has also made investments in faculty success, for example they have hired 849 new tenure track faculty throughout the 23 campuses of the university system and have provided support for the new faculty (CSU BK 1, tab 28). With 648 retirements and separations, there are a total of 201 new tenure line positions (CFA Tab 20, pg 3).

A one percent increase for faculty is equal to approximately 16.5 million dollars, however the CSU has negotiated "Me too" agreements and therefore is concerned that a 1% increase is the equivalent of 32.8 million (CFA EX 18). In that same document, the Chancellor and Vice chancellor of Human Resources acknowledge that:

Market competitiveness of employee groups varies depending on the unit and circumstances. Noteworthy trends include:

- 1) Longer-serving employees are often further behind the market than recently hired employees; and
- 2) Employees at the larger campuses are often further behind the market than those at smaller campuses.

### CONCLUSIONS

The recession severely impacted the faculty at CSU and while some progress has been made to restore the loss of competitive salaries with negotiated targeted increases, the faculty are still suffering from structural salary issues as well as the lack of substantial general salary increases in percentages in order to address the lack of progress in salary adjustments for all faculty. During the most challenging economic times, the faculty agreed to forego negotiated increases and also endured a 10% cut in salary, due to furloughs. A substantial GSI as well as SSI's to the 43% of faculty who have not had them, along with the increases of the past year and targeted efforts is in the interest of students, who need caring faculty and certainly in the public interest as our country needs a well educated population. The percentage GSI and SSI would also help to increase the salary spread and address the needs of long term employees, who are experiencing the greatest salary lag.

To accomplish this monies should be reallocated from other projects and implementation delayed by a year or two and the parties could agree to go jointly to the legislature and governor

to address these serious needs, interests and concerns for the good of higher education access and the welfare of the public at large.

### RECOMMENDATIONS OF THE CHAIR

1. Provide the SSI's to approximately 43% of the faculty.
2. Increase the faculty compensation with a GSI of 5%, spread over the year to minimize the impact in year two, which would obviously be the full 5% going forward. There are many options to explore for spreading the cost in year two of this CBA.
3. Develop a joint list of comparable universities that award bachelor and master's degrees and do a comparison using the available AAUP data and including a cost of living comparison.
4. Develop a joint strategy and documentation to go to the California Legislature and Governor in order to enhance the CSU budget.

The Panel met by conference call to discuss the Report and Recommendations, once on March 15, 2016, twice on March 16, 2016 and once on March 17, 2016.

For the University:

       Concur  
  X   Dissent

For the Union:

  X   Concur  
       Dissent

will be electronically mailed to the principals and PERB ASAP



\_\_\_\_\_  
Brad Wells  
University Panel Member



\_\_\_\_\_  
Dr. Kevin Wehr  
Union Panel Member

Issued on March 18, 2016 by



\_\_\_\_\_  
Bonnie Prouty Castrey,  
Panel Chair



To: Bryan Justman, CFA staff for Kathy Sheffield, Director of Representation

John Swarbrick, Chief Negotiator CSU, Sr. Labor Relations Advisor

From: Bonnie Prouty Castrey, Panel Chair 

RE: CONFIDENTIAL FAXED CSU/CFA Report and Recommendations PERB LA-IM-3856-H

The 16 page report follows this cover sheet. Please note that besides this faxed copy, I shall place a signed original in the mail to Panel Members, you and the PERB Office.

Best wishes for success in settling this matter during the 10 day window of opportunity.

Jay #5 CFA 916-441-3513  
CSU 562-951-4790